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Honorable Benjamin H. Settle

Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RAYMOND T. BALVAGE and DEBORAH
A. BALVAGE, husband and wife; *et. al.*,

Plaintiffs,

vs.

RYDERWOOD IMPROVEMENT AND
SERVICE ASSOCIATION, INC., a
Washington non-profit corporation,

Defendant.

NO. 3:09-cv-05409-BHS

DECLARATION OF JEFF CUMMINS
IN SUPPORT OF RISA'S MOTION
FOR RECONSIDERATION

DECLARATION OF JEFF CUMMINS IN
SUPPORT OF RISA'S MOTION FOR
RECONSIDERATION

630743.3/072313 2240/61840140

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1 I, Jeff Cummins, am competent to testify to the matters set forth herein and make this
2 declaration of my own personal knowledge and belief.

- 3 1. I am the owner of Community Waste & Recycling, the company that
4 collects garbage for the City of Ryderwood, Washington. In that role I
5 have come to know many of the residents in Ryderwood, including a
6 number of residents who are Plaintiffs in the ongoing litigation with RISA.
- 7 2. Since 1996, I have had a contract with RISA that requires me to collect
8 garbage from all residences in Ryderwood. RISA pays me a set fee to
9 collect garbage from each residence in Ryderwood.
- 10 3. Sometime in 2008 I was contacted by Ryderwood residents Charles
11 Weaver and Bob White on behalf of a group of people who had resigned
12 from RISA. Mr. Weaver and Mr. White, on behalf of the group, asked me
13 to continue to collect garbage from their homes and bill them directly
14 rather than bill RISA.
- 15 4. I initially declined to do so for a number of reasons, including: (a) it would
16 not be cost-effective for me to bill each resident rather than RISA on
17 behalf of all residents; (b) my contract with RISA pays me a set rate for all
18 Ryderwood residences; and (c) my contract with RISA restricted me from
19 entering into separate agreements with residents.
- 20 5. Mr. Weaver and Mr. White threatened to file a complaint with the
21 Washington Utilities and Transportation Commission ("WUTC"), the
22 State agency that regulates my ability to collect garbage, if I refused to
23 enter into private contracts with the resigning members.

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25 DECLARATION OF JEFF CUMMINS IN
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RECONSIDERATION

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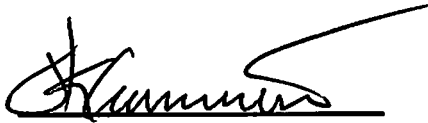
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- 1 6. When I informed Mr. Weaver and Mr. White of the conflicts I had with
2 the RISA contract, they advised me to renegotiate my deal with RISA and
3 suggested revisions for my contract with RISA.
- 4 7. I informed RISA of the issue I was having with the resigning members
5 and the potential conflict with my contract. I did not use the terms
6 suggested by Mr. Weaver and Mr. White but did ask RISA to remove the
7 provision restricting my ability to bill residents individually. RISA agreed
8 to do so but continued to pay me to collect garbage for all RISA residents.
- 9 8. As a result I currently bill a number of the Plaintiffs at the tariff rate
10 established by the WUTC for Cowlitz County: \$6.70 per month to collect
11 garbage once per week.
- 12 9. Most of the additional Plaintiffs have asked me to invoice them separately
13 for garbage collection since that time, but not all. I was provided the
14 names of all present Plaintiffs and cross-referenced those names against
15 my billing records to verify whether all Plaintiffs pay separately or not. I
16 have no records reflecting any individual billing demand from the
17 following Plaintiff residents:
 - 18 a. Ray and Carolyn Morris;
 - 19 b. Barbara Pepper;
 - 20 c. Charles Santineau; and
 - 21 d. Donald Smith.
- 22 10. I am aware that Plaintiffs claim RISA directed me not to collect garbage
23 from homes owned by Plaintiffs. This is false. RISA never instructed or
24 requested that I refuse to collect garbage from any residence at any time.

25 DECLARATION OF JEFF CUMMINS IN
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1 I declare the foregoing to be true and accurate to the best of my knowledge under
2 penalty of perjury.

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5 Jeff Cummins

6 Executed this 23 day of July, 2013 at

7 Ryderwood, Washington
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25 DECLARATION OF JEFF CUMMINS IN
SUPPORT OF RISA'S MOTION FOR
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